

SENATE, No. 1883

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 15, 2018

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

SYNOPSIS

Requires owner or operator of certain trains to have discharge response, cleanup, and contingency plans to transport certain hazardous materials by rail; requires NJ DOT to request bridge inspection reports from US DOT.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning freight rail safety and supplementing Titles 58
2 and 27 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. As used in P.L. , c. (C.) (pending before the
8 Legislature as this bill):

9 "Cleanup and removal costs" means all direct costs associated
10 with a discharge, and those indirect costs that may be imposed by
11 the department pursuant to section 1 of P.L.2002, c.37 (C.58:10b-
12 2.1) associated with a discharge, incurred by the State, or its
13 political subdivisions, or their agents, or any person with written
14 approval from the department in the: (1) removal or attempted
15 removal of hazardous substances, or (2) taking of reasonable
16 measures to prevent or mitigate damage to the public health, safety,
17 or welfare, including, but not limited to, public and private
18 property, shorelines, beaches, surface waters, water columns and
19 bottom sediments, soils, and other affected property, including
20 wildlife and other natural resources, and shall include costs incurred
21 by the State for the indemnification and legal defense of contractors
22 pursuant to sections 1 through 11 of P.L.1991, c.373 (C.58:10-
23 23.11f8 et seq.);

24 "Commissioner" means the Commissioner of Environmental
25 Protection;

26 "Contamination" or "contaminant" means any discharged
27 hazardous substance, hazardous waste as defined pursuant to
28 section 1 of P.L.1976, c.99 (C.13:1E-38), or pollutant as defined
29 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3);

30 "Department" means the Department of Environmental
31 Protection;

32 "Discharge" means any intentional or unintentional action or
33 omission resulting in the releasing, spilling, leaking, pumping,
34 pouring, emitting, emptying, or dumping of hazardous substances
35 into the waters or onto the lands of the State, or into waters outside
36 the jurisdiction of the State when damage may result to the lands,
37 waters, or natural resources within the jurisdiction of the State;

38 "Emergency response action" means those activities conducted
39 by a local unit to clean up, remove, prevent, contain, or mitigate a
40 discharge that poses an immediate threat to the environment or to
41 the public health, safety, or welfare;

42 "Emergency services personnel" means a person who is
43 employed as a law enforcement officer, emergency medical service
44 technician, firefighter, emergency communications operator,
45 hazardous materials responder, or in a related occupation or
46 profession, or who serves as a volunteer member of a fire
47 department, duly incorporated fire or first aid company, or
48 volunteer emergency, ambulance, or rescue squad association,

1 organization, or company which provides emergency services for a
2 local unit;

3 "Emergency services provider" means a law enforcement
4 agency, emergency medical services unit, fire department,
5 emergency communications provider, hazardous material response
6 unit, volunteer fire department, duly incorporated fire or first aid
7 company, or volunteer emergency, ambulance, or rescue squad
8 association, organization, or company which provides emergency
9 services for a local unit;

10 "Hazardous substances" means the "environmental hazardous
11 substances" on the environmental hazardous substance list adopted
12 by the department pursuant to section 4 of P.L.1983,
13 c.315 (C.34:5A-4); elements and compounds, including petroleum
14 products, which are defined by the department, after public hearing,
15 and which shall be consistent to the maximum extent possible with,
16 and which shall include, the list of hazardous substances adopted by
17 the federal Environmental Protection Agency pursuant to section
18 311 of the "Federal Water Pollution Control Act Amendments of
19 1972," Pub.L.92-500, as amended by the "Clean Water Act of
20 1977," Pub.L.95-217 (33 U.S.C. s.1251 et seq.); the list of toxic
21 pollutants designated by the Congress of the United States or the
22 federal Environmental Protection Agency pursuant to section 53 of
23 that act; and the list of hazardous substances adopted by the federal
24 Environmental Protection Agency pursuant to section 101 of the
25 "Comprehensive Environmental Response, Compensation, and
26 Liability Act of 1980," Pub.L.96-510 (42 U.S.C. s.9601 et seq.);
27 provided, however, that sewage and sewage sludge shall not be
28 considered as hazardous substances for the purposes of P.L. ,
29 c. (C.) (pending before the Legislature as this bill);

30 "High hazard train" means any railroad locomotive propelling a
31 railroad tank car or connection of railroad tank cars transporting
32 200,000 gallons or more of petroleum or petroleum products or
33 20,000 gallons or more of hazardous substances other than
34 petroleum or petroleum products;

35 "Local unit" means any county or municipality, or any agency or
36 other instrumentality thereof, or a duly incorporated volunteer fire,
37 ambulance, first aid, emergency, or rescue company or squad;

38 "Major facility" shall have the same meaning as forth in section
39 3 of P.L.1976, c.141 (C.58:10-23.11b);

40 "Natural resources" means all land, fish, shellfish, wildlife, biota,
41 air, waters, and other resources owned, managed, held in trust, or
42 otherwise controlled by the State;

43 "Owner" or "operator" means, with respect to any high hazard
44 train, any person owning the high hazard train, or operating it by
45 lease, contract, or other form of agreement; provided, however, that
46 the owner or operator shall not mean a person who operates a high
47 hazard train only for the purposes of positioning or moving railroad
48 tank cars within the confines of a major facility, or a person whose

1 interest in a high hazard train solely involves the ownership or lease
2 of one or more railroad tank cars without operational authority;

3 "Person" means public or private corporations, companies,
4 associations, societies, firms, partnerships, joint stock companies,
5 individuals, the United States, the State of New Jersey, and any of
6 its political subdivisions or agents;

7 "Petroleum" or "petroleum products" shall have the same
8 meaning as forth in section 3 of P.L.1976, c.141 (C.58:10-23.11b);

9 "Remedial action" means those actions taken at a site or offsite if
10 a contaminant has migrated or is migrating therefrom, as may be
11 required by the department, including the removal, treatment,
12 containment, transportation, securing, or other engineering or
13 treatment measures, whether to an unrestricted use or otherwise,
14 designed to ensure that any discharged contaminant at the site or
15 that has migrated or is migrating from the site, is remediated in
16 compliance with the applicable health risk or environmental
17 standards;

18 "Remediation" or "remediate" means all necessary actions to
19 investigate and clean up or respond to any known, suspected, or
20 threatened discharge, including, as necessary, the preliminary
21 assessment, site investigation, remedial investigation, and remedial
22 action, provided, however, that "remediation" or "remediate" shall
23 not include the payment of compensation for damage to, or loss of,
24 natural resources. For the purpose of this definition, "remedial
25 investigation" means a process to determine the nature and extent of
26 a discharge of a contaminant at a site or a discharge of a
27 contaminant that has migrated or is migrating from the site and the
28 problems presented by a discharge, and may include data collected,
29 site characterization, sampling, monitoring, and the gathering of
30 any other sufficient and relevant information necessary to determine
31 the necessity for remedial action and to support the evaluation of
32 remedial actions if necessary and "site investigation" means the
33 collection and evaluation of data adequate to determine whether or
34 not discharged contaminants exist at a site or have migrated or are
35 migrating from the site at levels in excess of the applicable
36 remediation standards; and

37 "Waters" means the ocean and its estuaries to the seaward limit
38 of the State's jurisdiction, all springs, streams, and bodies of surface
39 or groundwater, whether natural or artificial, within the boundaries
40 of this State.

41

42 2. a. The owner or operator of a high hazard train traveling
43 within this State shall submit a discharge response, cleanup, and
44 contingency plan to the Department of Environmental Protection.
45 The owner or operator of a high hazard train shall submit a
46 discharge response, cleanup, and contingency plan within six
47 months of the effective date of P.L. , c. (C.) (pending before
48 the Legislature as this bill).

1 b. The discharge response, cleanup, and contingency plan shall
2 contain the following information:

3 (1) A summary and detailed description of the emergency
4 response measures to be used by the trained personnel or discharge
5 cleanup contractors employed by the owner or operator of the high
6 hazard train, as applicable, in responding to, and minimizing health
7 and environmental dangers from, fires, explosions, or unauthorized
8 discharges or releases of hazardous substances to the air, soil, or
9 waters of the State, including: the planned deployment of personnel
10 and equipment in the event of a discharge or other emergency, the
11 chain of command for the emergency response measures, and the
12 ability of the emergency response measures to comply with the
13 timetables established pursuant to section 8 of P.L. ,

14 c. (C.) (pending before the Legislature as this bill);

15 (2) An identification of all equipment available for cleanup and
16 emergency response measures, including all equipment located in a
17 location other than the high hazard train, that is either under the
18 direct control of the owner or operator of the high hazard train, or
19 that is available, by contract, to the owner or operator of the high
20 hazard train in the event of a discharge or other emergency;

21 (3) A list of the names, business addresses, home addresses,
22 telephone numbers, electronic mail addresses, and qualifications of
23 all emergency response coordinators employed by the owner or
24 operator of the high hazard train, along with the authority and
25 responsibilities of each emergency response coordinator in the
26 event of a discharge or other emergency, and the names and
27 qualifications of all other trained personnel employed by the owner
28 or operator of the high hazard train, which have been trained to
29 operate containment, cleanup, and removal equipment and are
30 required to respond to a discharge or other emergency;

31 (4) The priorities for the deployment of trained personnel and
32 emergency response, recovery, and containment equipment to
33 protect residential, environmentally sensitive, or other areas against
34 a discharge or other emergency based on use, seasonal sensitivity,
35 or other relevant factors; and

36 (5) Any other information deemed necessary or useful by the
37 department.

38 c. The discharge response, cleanup, and contingency plan shall
39 certify that:

40 (1) trained personnel and emergency response, recovery, and
41 containment equipment as specified in the discharge response,
42 cleanup, and contingency plan are readily available on the high
43 hazard train or can be speedily deployed to the high hazard train;

44 (2) the emergency response, recovery, and containment
45 equipment is in good repair;

46 (3) the discharge response, cleanup, and contingency plan is
47 consistent with applicable local, regional, and State emergency
48 response plans;

1 (4) the discharge response, cleanup, and contingency plan
2 complies with departmental regulations; and

3 (5) the discharge response, cleanup, and contingency plan was
4 reviewed, and approved by a licensed professional engineer.

5 d. The discharge response, cleanup, and contingency plan shall
6 provide for simulated emergency response drills, to be conducted at
7 least once annually, to determine the adequacy of and personnel
8 familiarity with the discharge response, cleanup, and contingency
9 plan.

10 e. The owner or operator of a high hazard train shall include
11 with the discharge response, cleanup, and contingency plan
12 submitted to the department:

13 (1) An environmentally sensitive areas and habitats protection
14 plan, reviewed and certified by a marine biologist and an
15 ornithologist, that shall:

16 (a) identify all environmentally sensitive areas and wildlife
17 habitats that could be affected by a discharge from the high hazard
18 train that travels in proximity to the environmentally sensitive area;

19 (b) identify the seasonal sensitivity of the areas or habitats;

20 (c) in the event of a discharge, provide for the protection from,
21 and mitigation of, any potentially adverse impact of the discharge
22 on the identified areas or habitats; and

23 (d) provide for an environmental assessment of the impact of
24 any discharge on the identified areas and habitats, including the
25 effects on the habitat's flora, fauna, or organisms.

26 The environmentally sensitive areas and habitats protection plan
27 shall, using criteria established by the department for identifying
28 environmentally sensitive areas or habitats, identify any
29 environmentally sensitive area or habitat that could be adversely
30 affected by a discharge from the high hazard train;

31 (2) A copy of any existing agreement between the owner or
32 operator of the high hazard train and an emergency services
33 provider of a local unit located along the travel route of the high
34 hazard train to coordinate the emergency response actions of the
35 local unit and the owner or operator of the high hazard train; and

36 (3) A copy of all current contracts or agreements between the
37 owner or operator of the high hazard train and a discharge cleanup
38 organization for remedial action, including containment, cleanup,
39 removal, and disposal.

40

41 3. a. The owner or operator of a high hazard train shall submit
42 an application for renewal of the discharge response, cleanup, and
43 contingency plan every five years to the department, unless the
44 department requires a more frequent submission. Applications for
45 discharge response, cleanup, and contingency plan renewals shall be
46 accompanied by a summary of all unauthorized discharges within
47 this State by the owner or operator of the high hazard train and any
48 other information as may be deemed necessary or useful to the

1 department. Discharge response, cleanup, and contingency plan
2 renewals may be limited to certifying that the existing discharge
3 response, cleanup, and contingency plan on file with the department
4 is current. Filing of a revised discharge response, cleanup, and
5 contingency plan may be required by the department at the time of
6 renewal so as to incorporate into the discharge response, cleanup,
7 and contingency plan all amendments to the discharge response,
8 cleanup, and contingency plan adopted since the filing of the
9 original discharge response, cleanup, and contingency plan or its
10 last renewal.

11 b. The owner or operator of a high hazard train shall file an
12 amendment to the discharge response, cleanup, and contingency
13 plan, not later than 30 days after any modification of the high
14 hazard train, rail yards, fueling stations, or the high hazard train's
15 route of travel.

16
17 4. The owner or operator of a high hazard train shall make
18 available to the public on its website, to the extent that the release
19 of the information shall not conflict with federal law, the following
20 information:

21 a. The routes and volumes of cargoes updated on a monthly
22 basis;

23 b. An analysis of the consequences of maximum discharges
24 from the high hazard trains owned or operated in the State;

25 c. A copy of the most current discharge response, cleanup, and
26 contingency plan submitted to the department pursuant to sections 2
27 and 3 of P.L. , c. (C.) (pending before the Legislature as this
28 bill); and

29 d. A railroad routing analysis, as required pursuant to section
30 1551 of the "Implementing Recommendations of the 9/11
31 Commission Act of 2007," Pub.L.110-53 (6 U.S.C. s.1201 et seq.),
32 and any accompanying documentation that impacted the owner or
33 operator's decision in routing the high hazard train through the
34 State.

35
36 5. A copy of the discharge response, cleanup, and contingency
37 plan, discharge response, cleanup, and contingency plan renewal,
38 and all discharge response, cleanup, and contingency plan
39 amendments shall be filed by the owner or operator of a high hazard
40 train with the New Jersey Office of Emergency Management.

41
42 6. The owner or operator of a high hazard train shall, at all
43 times, retain on file with the department evidence of financial
44 responsibility for the cleanup and removal costs of a discharge or
45 release of a hazardous substance, and for the removal of any
46 damaged or disabled high hazard train equipment or parts. The
47 amount, nature, terms, and conditions of the financial responsibility
48 shall be determined by the department. The owner or operator of a

1 high hazard train shall file evidence of financial responsibility with
2 the department within 180 days of the effective date of P.L. ,
3 c. (C.) (pending before the Legislature as this bill).

4
5 7. The owner or operator of a high hazard train shall offer
6 training to the emergency services personnel of every local unit
7 having jurisdiction along the travel route of a high hazard train.
8 Initial training shall be offered within one year of the effective date
9 of P.L. , c. (C.) (pending before the Legislature as this bill)
10 with renewal training offered to the emergency service personnel of
11 every local unit having jurisdiction along the travel route of a high
12 hazard train at least once every three years thereafter. The training
13 shall address: the general hazards of the petroleum, petroleum
14 products, or hazardous substances being transported by the high
15 hazard train; techniques to assess hazards to the environment in the
16 event of a discharge; techniques to assess the safety of emergency
17 service personnel and the general public in the event of a discharge
18 that poses an imminent threat to public health, safety, or welfare;
19 factors an emergency service provider shall consider in determining
20 whether to attempt to suppress a fire or to evacuate the public and
21 emergency service personnel from an area in the event of a
22 discharge that poses an imminent threat to public health, safety, or
23 welfare; and other suggested protocols or practices for emergency
24 service personnel to consider in the event of a discharge that poses
25 an imminent threat to public health, safety, or welfare.

26
27 8. Following a discharge that requires emergency response
28 action, the owner or operator of a high hazard train shall:

29 a. Within one hour of a discharge, identify an emergency
30 response coordinator to advise the emergency services provider of
31 the local unit. The emergency response coordinator may be made
32 available by telephone, but is required to have authorization to
33 deploy all necessary emergency response resources of the owner or
34 operator of the high hazard train;

35 b. Within three hours of a discharge, deploy the emergency
36 response coordinator and trained personnel to the discharge site to
37 assess the discharge and to advise the emergency service provider
38 of the local unit;

39 c. Within eight hours of a discharge, deliver and deploy
40 emergency response, recovery, and containment equipment, trained
41 personnel, and all other materials needed to provide on-site
42 containment of the discharged petroleum, petroleum products, and
43 hazardous substances and to protect environmentally sensitive areas
44 and potable water intakes within one mile of the discharge site and
45 within eight hours of calculated water travel time in any river or
46 stream that the discharge site intersects; and

47 d. Within 60 hours of a discharge, deliver and deploy
48 additional emergency response, recovery, and containment

1 equipment, trained personnel, and all other materials needed to
2 provide containment and recovery of the discharged petroleum,
3 petroleum products, and hazardous substances and to protect
4 environmentally sensitive areas and potable water intakes at any
5 location along the travel route of the high hazard train or in any
6 river or stream that the discharge site intersects.

7
8 9. The provisions of P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall not apply to the owner or operator of a
10 Class III carrier, as defined by the Surface Transportation Board
11 pursuant to 49 C.F.R. Part 1201 1-1, that operates within a single
12 municipality on not more than 25 total track miles and is engaged in
13 switching or terminal railroad services.

14 Nothing contained herein shall be construed to exempt a major
15 facility from the provisions of the "Spill Compensation and Control
16 Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

17
18 10. a. Except as otherwise provided in subsection b. of this
19 section, the department shall, as soon as practicable, but not later
20 than six months following a filing of a discharge response, cleanup,
21 and contingency plan or a renewal of a discharge response, cleanup,
22 and contingency plan, or, in the case of amendments, within 60 days
23 of the filing of the amendments, review the filing to determine
24 compliance with all statutory requirements, including rules and
25 regulations adopted pursuant thereto.

26 b. The department may, at any time during the discharge
27 response, cleanup, and contingency plan, discharge response,
28 cleanup, and contingency plan renewal, or discharge response,
29 cleanup, and contingency plan amendment review period approve,
30 conditionally approve, or disapprove a discharge response, cleanup,
31 and contingency plan, discharge response, cleanup, and contingency
32 plan renewal, or discharge response, cleanup, and contingency plan
33 amendments. If a discharge response, cleanup, and contingency
34 plan, discharge response, cleanup, and contingency plan renewal, or
35 discharge response, cleanup, and contingency plan amendments are
36 disapproved, the owner or operator of the high hazard train shall
37 have 30 days from receipt of written notice of the disapproval, and
38 the reasons therefor, with which to submit a revised discharge
39 response, cleanup, and contingency plan or discharge response,
40 cleanup, and contingency plan amendments. If after 30 days of
41 receipt of a written request therefor, the owner or operator of the
42 high hazard train fails to file a revised discharge response, cleanup,
43 and contingency plan, discharge response, cleanup, and contingency
44 plan renewal, or amendments to the department or fails to contest
45 the department's request in accordance with the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the discharge
47 response, cleanup, and contingency plan, discharge response,
48 cleanup, and contingency plan renewal, or discharge response,

1 cleanup, and contingency plan amendments shall be deemed to have
2 been disapproved by the department and the owner or operator of
3 the high hazard train shall be in violation of section 2 of P.L. ,
4 c. (C.) (pending before the Legislature as this bill). The
5 department may, for good cause, extend by up to an additional 30
6 days the time period for filing a revised discharge response,
7 cleanup, and contingency plan or discharge response, cleanup, and
8 contingency plan amendments.

9
10 11. a. Whenever, on the basis of available information, the
11 Commissioner of Environmental Protection finds that the owner or
12 operator of a high hazard train is in violation of the provisions of
13 P.L. , c. (C.) (pending before the Legislature as this bill), or
14 any rule or regulation adopted pursuant thereto, the commissioner
15 may:

16 (1) Levy a civil administrative penalty in accordance with
17 subsection b. of this section; or

18 (2) Bring an action for a civil penalty in accordance with
19 subsection c. of this section.

20 The exercise of any of the remedies provided in this section shall
21 not preclude recourse to any other remedy so provided.

22 b. The commissioner is authorized to assess a civil
23 administrative penalty of not more than \$25,000 for each violation
24 of the provisions of P.L. , c. (C.) (pending before the
25 Legislature as this bill), or any rule or regulation adopted pursuant
26 thereto, and each day during which each violation continues shall
27 constitute an additional, separate, and distinct offense. Any amount
28 assessed under this section shall fall within a range established by
29 regulation by the commissioner for violations of similar type,
30 seriousness, duration, and conduct; provided, however, that prior to
31 the adoption of the rule or regulation, the commissioner may, on a
32 case-by-case basis, assess civil administrative penalties up to a
33 maximum of \$25,000 per day for each violation, utilizing the
34 criteria set forth herein. In addition to any civil administrative
35 penalty assessed under this subsection and notwithstanding the
36 \$25,000 maximum penalty set forth above, the commissioner may
37 assess any economic benefits from the violation gained by the
38 violator. Prior to assessment of a penalty under this subsection, the
39 owner or operator of the high hazard train committing the violation
40 shall be notified by certified mail or personal service that the
41 penalty is being assessed. The notice shall: include a reference to
42 the section of the statute or regulation violated; recite the facts
43 alleged to constitute a violation; state the basis for the amount of
44 the civil penalties to be assessed; and affirm the rights of the
45 alleged violator to a hearing. The ordered party shall have 35
46 calendar days from receipt of the notice within which to deliver to
47 the commissioner a written request for a hearing. After the hearing
48 and upon finding that a violation has occurred, the commissioner

1 may issue a final order after assessing the amount of the fine
2 specified in the notice. If a hearing is not requested, the notice shall
3 become a final order after the expiration of the 35 calendar day
4 period. Payment of the assessment is due when a final order is
5 issued or the notice becomes a final order. The authority to levy an
6 administrative order is in addition to all other enforcement
7 provisions in P.L. , c. (C.) (pending before the Legislature
8 as this bill), or of any rule or regulation adopted pursuant thereto,
9 and the payment of any assessment shall not be deemed to affect the
10 availability of any other enforcement provisions in connection with
11 the violation for which the assessment is levied. The department
12 may compromise any civil administrative penalty assessed under
13 this subsection in an amount and with conditions the department
14 determines appropriate. A civil administrative penalty assessed,
15 including a portion thereof required to be paid pursuant to a
16 payment schedule approved by the department, which is not paid
17 within 90 days of the date that payment of the penalty is due, shall
18 be subject to an interest charge on the amount of the penalty, or
19 portion thereof, which shall accrue as of the date payment is due. If
20 the penalty is contested, an additional interest charge shall not
21 accrue on the amount of the penalty until 90 days after the date on
22 which a final order is issued. Interest charges assessed and
23 collectible pursuant to this subsection shall be based on the rate of
24 interest on judgments provided in the New Jersey Rules of Court.

25 c. Any owner or operator of a high hazard train who violates
26 the provisions of P.L. , c. (C.) (pending before the
27 Legislature as this bill), or any rule or regulation adopted pursuant
28 thereto, or who fails to pay in full a civil administrative penalty
29 levied pursuant to subsection b. of this section, or who fails to make
30 a payment pursuant to a penalty payment schedule entered into with
31 the department, or who knowingly makes any false or misleading
32 statement, representation, or certification on any application,
33 record, report, or other document required to be submitted to the
34 department, shall be subject, upon order of a court, to a civil penalty
35 not to exceed \$25,000 for each day during which the violation
36 continues. Any civil penalty imposed pursuant to this subsection
37 may be collected, and any costs incurred in connection therewith
38 may be recovered, in a summary proceeding pursuant to the
39 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
40 et seq.). In addition to any penalties, costs or interest charges, the
41 court may assess against the violator the amount of economic
42 benefit accruing to the violator from the violation. The Superior
43 Court shall have jurisdiction to enforce the "Penalty Enforcement
44 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

45 d. The owner or operator of a high hazard train that
46 experiences a discharge shall be subject to the penalty and
47 injunctive relief provisions of section 22 of P.L.1976,
48 c.141 (C.58:10-23.11u).

12. Whenever information is received by the New Jersey Office of Emergency Management pursuant to United States Department of Transportation Emergency Order Docket No. DOT-OST-2014-0067, or any law, rule, regulation, or order that shall supersede that order, or pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), the New Jersey Office of Emergency Management shall provide that information to each county office of emergency management and emergency services provider having jurisdiction along the travel route of a high hazard train.

13. The department shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

14. In accordance with the federal regulations promulgated pursuant to section 11405 of the federal “Fixing America’s Surface Transportation Act,” Pub.L.114-94, the Commissioner of Transportation shall, at least annually and whenever the Commissioner of Transportation shall deem necessary, request from the United States Secretary of Transportation a copy of the most recent bridge inspection report generated pursuant to the federal “Rail Safety Improvement Act of 2008,” Pub.L.110-432, for every bridge owned by a railroad or upon which a railroad is located.

The Commissioner of Transportation shall submit any bridge inspection report, acquired by the Department of Transportation pursuant to this section, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

15. This act shall take effect immediately.

STATEMENT

This bill requires the owner or operator of a high hazard train traveling on any railroad track within this State to submit to the Department of Environmental Protection (department) within six months of the effective date of the bill a discharge response, cleanup, and contingency plan (plan).

The bill requires the plan to be renewed every five years with the department unless the department requires a more frequent submission and any amendments to the plan are to be filed with the department within 30 days of the date of any modification of the high hazard train, rail yards, fueling stations, or the high hazard train’s route of travel. The owner or operator of a high hazard train is required to retain on file with the department evidence of financial responsibility for the cleanup and removal costs of a discharge or release of a hazardous substance, and for the removal

1 of any damaged or disabled high hazard train equipment or parts. A
2 copy of the plan, plan renewal, and all plan amendments are to be
3 filed by the owner or operator of a high hazard train with the New
4 Jersey Office of Emergency Management.

5 Under the bill, the owner or operator of a high hazard train is
6 required to make available to the public on its website, to the extent
7 the release of the information does not conflict with federal law,
8 information concerning: the routes and volumes of cargoes updated
9 on a monthly basis; an analysis of the consequences of maximum
10 discharges from the high hazard trains owned or operated in the
11 State; a copy of the most current plan; and a railroad routing
12 analysis and any accompanying documentation that impacted the
13 owner or operator's decision in routing the high hazard train
14 through the State.

15 The bill requires the owner or operator of a high hazard train to
16 offer training to the emergency services personnel of every local
17 unit having jurisdiction along the travel route of the high hazard
18 train. The initial training is to be offered within one year of the
19 effective date of this bill and renewal training is to be offered at
20 least once every three years thereafter.

21 The bill requires that the owner or operator of a high hazard train
22 that has experienced a discharge that requires emergency response
23 action to deliver and deploy sufficient emergency response,
24 recovery, and containment equipment and trained personnel to
25 contain and recover the discharged materials and protect the public
26 within certain timeframes.

27 The provisions of the bill are not applicable to the owner or
28 operator of a Class III carrier, as defined by the federal Surface
29 Transportation Board, that operates within a single municipality on
30 not more than 25 total track miles and is engaged in switching or
31 terminal railroad services. The bill clarifies that it is not to be
32 construed to exempt major facilities from the provisions of the
33 "Spill Compensation and Control Act."

34 The bill requires the department to review plans or plan renewals
35 within six months of filing and plan amendments within 60 days of
36 filing. If a plan, plan renewal, or plan amendment is disapproved,
37 the owner or operator of the high hazard train is required to submit
38 a revised plan or plan amendment within 30 days from the receipt of
39 written notice of the disapproval. The bill permits the department
40 to issue civil administrative penalties for violations under the bill
41 and bring an action for civil penalties. Under the bill, the owner of
42 a high hazard train that experiences a discharge is subject to the
43 penalty and injunctive relief provisions of the "Spill Compensation
44 and Control Act."

45 The New Jersey Office of Emergency Management is to provide
46 certain information to certain county offices of emergency
47 management and emergency services.

1 The bill requires the Commissioner of Transportation
2 (commissioner) to, annually or whenever deemed necessary, request
3 from the U.S. Department of Transportation a copy of the most
4 recent bridge inspection report generated pursuant to the federal
5 “Rail Safety Improvement Act of 2008” for every bridge owned by
6 a railroad or upon which a railroad is located. The commissioner is
7 to submit any bridge inspection report acquired by the Department
8 of Transportation to the Governor and the Legislature.